

UNITED STATES DISTRICT COURT FOR  
EASTERN DISTRICT OF NEW YORK

HILDA L. SOLIS, Secretary of Labor, United States Department of Labor,	:	
	:	Civil Action File
Plaintiff,	:	
v.	:	No. 10- 3248 (ENV)
SC & BP SERVICES, INC.; BP & SC SERVICES, INC.;	:	
BRIAN POWERS, Individually, and SUSAN COADY,	:	<b>CONSENT JUDGMENT</b>
Individually,	:	
Defendants.	:	

Plaintiff, the Secretary of Labor, has filed her Complaint and defendants SC & BP SERVICES, INC.; BP & SC SERVICES, INC.; BRIAN POWERS and SUSAN COADY have appeared by Counsel, and an agreement was reached by all the parties to resolve all the issues raised in this action. Defendants acknowledge their responsibilities pursuant to this agreement, and acknowledge that they will be subject to sanctions in contempt of this Court if they fail to comply with the provisions of this Judgment. Defendants, without admitting or denying the allegations of the Complaint, consent to the entry of this Judgment, and it is therefore upon motion of the attorneys for the Secretary and for good cause shown:

I. ORDERED, ADJUDGED, AND DECREED that defendants, their officers, employees, agents, and all persons acting or claiming to act in the defendants' behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201 *et seq.*), ("the Act"), in any of the following manners:

(1) Defendants shall not, contrary to Section 6 of the Act, pay to any of their employees who in any workweek are engaged in commerce or in the production of goods for commerce, or

employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendants shall not, contrary to section 7 of the Act, employ any of their employees in any workweek who are employed in an enterprise engaged in commerce, within the meaning of the Act, for workweeks longer than the hours now, or which in the future become, applicable under sections 7 and 15(a)(2) of the Act, unless the employees receive compensation for their employment in excess of the prescribed hours at rates not less than one and one-half times the employees' regular rates.

(3) Defendants shall make, keep, and preserve accurate and complete records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

(4) Defendants shall not discharge or take any retaliatory action against any employee because the employee engages in any of the following activities:

a. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

b. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the employer or another employer with whom there is a business relationship;

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act.

Further, the Court finding, as agreed by Defendants SC & BP SERVICES, INC.; BP & SC SERVICES, INC.; BRIAN POWERS and SUSAN COADY that \$55,889.88 in minimum wage and overtime compensation, plus post-judgment interest in the amount of \$16.31, is due certain employees listed on the attached Schedule A, it is:

II. ORDERED, ADJUDGED, AND DECREED that the defendants be, and hereby are, enjoined and restrained from withholding the payment of minimum wage and overtime compensation and post-judgment interest due their employees listed on Schedule A in the total amount of \$55,906.19. Payment of that sum shall be made by defendants in 4 installment payments as follows:

<u>Payment Due</u>	<u>Back Wages Due</u>	<u>Interest Due</u>	<u>Total Due</u>
May 29, 2010	\$13,972.47	\$0.00	\$13,972.47
June 5, 2010	\$13,972.47	\$2.94	\$13,975.41
June 12, 2010	\$13,972.47	\$5.61	\$13,978.08
June 19, 2010	\$13,972.47	\$7.76	\$13,980.23

The distribution of the checks to the employees listed on Schedule A representing the net amount of unpaid wages due shall be performed by defendants, who shall make certain that legal deductions are taken from the gross amounts due, under the supervision of and direction of the plaintiff. Proof of payment in the form of copies of canceled checks and signed Form WH-58s

shall be delivered to Alfonso Holder, Assistant District Director, U.S. Department of Labor, Wage Hour Division, 26 Federal Plaza, Room 3700, New York, NY 10278-0190. All proofs of payment shall be delivered within 45 days after payment is due, as set forth above and in Schedule A.

Within 60 days after payment is due, as set forth above and in Schedule A, the total of any net funds that have not been delivered to a current or former employee because of his or her refusal to accept the back wages, because of inability to locate the proper persons, or for any other reason, shall be made by delivering a cashier's or certified check made payable to "**Wage and Hour-Labor**" to Alfonso Holder, Assistant District Director, U.S. Department of Labor, Wage Hour Division, 26 Federal Plaza, Room 3700, New York, NY 10278-0190 together with a list of employees and the respective net wage amounts found due. The listing shall specify each employee's name, social security number and net amount of wages and interest due. The monies shall then be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. § 2041 and § 2042.

III. ORDERED that in the event that any one installment payment is not made within 10 days of the due date as set forth above, all remaining installment payments become due immediately. Neither defendants nor anyone acting on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid as back wages under this Judgment.

IV. ORDERED that the defendants shall advise all their employees in English and their native language of the employees' rights under the Fair Labor Standards Act, including the payment of minimum and overtime wages and the rights of employees to engage in activity protected by the Act without fear of retaliation. This advice to employees shall take place within 30 days of the entry of this Judgment on a workday.

V. ORDERED that defendants shall place posters provided by the Wage and Hour Division with information about the FLSA where employees may view them.

VI. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees or former employees of defendants not listed in Schedule A to file any action against defendants under Section 16(b) of the Act, or likewise for any current or former employee listed in Schedule A to file any action against defendants under Section 16(b) of the Act for any violations alleged to have occurred after November 1, 2006.

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VII. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

DATED: **JUL 19 2010**  
Brooklyn, New York

s/ENV

HONORABLE ERIC N. VITALIANO  
UNITED STATES DISTRICT JUDGE

Defendants appeared by counsel and waived their answer and any defense to the Complaint, and consent to the entry of this Judgment.

By:

*Brian Powers*  
BRIAN POWERS, Owner  
SC & BP SERVICES, INC. and BP & SC SERVICES, INC.

*Brian Powers*  
BRIAN POWERS, Individually

*Susan Coady*  
SUSAN COADY, Individually

*Pamela Lynn Brause*  
Pamela Lynn Brause, Esq.  
Brause, Brause & Ventrice, L.L.C.  
276 Main Street  
Metuchen, NJ 08840-4001  
Attorney for Defendants

*On this 6<sup>th</sup> day July 2010* *Brian Powers*  
DIANA ORTIZ  
NOTARY PUBLIC, State of New York  
No. 010R4885511  
Qualified in Kings County  
Commission Expires Feb. 17, 2011

*Diana Ortiz*

*On this 6<sup>th</sup> day July 2010* *Susan Coady*  
DIANA ORTIZ  
NOTARY PUBLIC, State of New York  
No. 010R4885511  
Qualified in Kings County  
Commission Expires Feb. 17, 2011

*Diana Ortiz*

RESOLVED that SC & BP SERVICES, INC. hereby ratifies and confirms the offer made to HILDA L. SOLIS, Secretary of Labor, with respect to the alleged violations of the Fair Labor Standards Act of 1938, as amended, and that the corporation consents to the entry of the Consent Judgment, said judgment to be entered in an action which has been filed by HILDA L. SOLIS, Secretary of Labor, against the corporation and the officers of the corporations be, and they hereby are, authorized to do and perform all acts and things necessary to effectuate the provisions of said judgment and any or all stipulations, amendments and changes therein.

The undersigned, BRIAN POWERS, Owner of SC & BP SERVICES, INC., hereby certifies that the foregoing is a true copy of a resolution adopted by the Corporation, as evidenced by the signature of the officer of the Corporation who is duly authorized to bind the Corporation to the terms of this injunction against it. The undersigned further certifies that BRIAN POWERS whose signature appears below is the Owner of said corporation and that he has duly been authorized by said resolution to execute the aforementioned consent to the entry of said judgment on behalf of the corporation.

  
(AUTHORIZED OFFICER)

RESOLVED that BP & SC SERVICES, INC. hereby ratifies and confirms the offer made to HILDA L. SOLIS, Secretary of Labor, with respect to the alleged violations of the Fair Labor Standards Act of 1938, as amended, and that the corporation consents to the entry of the Consent Judgment, said judgment to be entered in an action which has been filed by HILDA L. SOLIS, Secretary of Labor, against the corporation and the officers of the corporations be, and they hereby are, authorized to do and perform all acts and things necessary to effectuate the provisions of said judgment and any or all stipulations, amendments and changes therein.

The undersigned, BRIAN POWERS, Owner of BP & SC SERVICES, INC., hereby certifies that the foregoing is a true copy of a resolution adopted by the Corporation, as evidenced by the signature of the officer of the Corporation who is duly authorized to bind the Corporation to the terms of this injunction against it. The undersigned further certifies that BRIAN POWERS whose signature appears below is the Owner of said corporation and that he has duly been authorized by said resolution to execute the aforementioned consent to the entry of said judgment on behalf of the corporation.

  
(AUTHORIZED OFFICER)



STATE OF NEW YORK )  
COUNTY OF ) :SS

On the \_\_\_\_ day of \_\_\_\_\_ 2010 before me personally appeared SUSAN COADY to me known and known to me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Signed p/g 6 where actual signature  
NOTARY PUBLIC was,



**SCHEDULE A**

EE Name / 3rd Party		Principal	Interest	Total Payment
Date Due	05/05/2010			
	Madaline Aggerup	\$53.65	\$0.00	\$53.65
	Aaron Ambrose	\$298.99	\$0.00	\$298.99
	Anita Camey	\$242.75	\$0.00	\$242.75
	Celia Castillo	\$26.81	\$0.00	\$26.81
	Yvonne Chandilal	\$2,010.13	\$0.00	\$2,010.13
	Arnold Coco	\$5,769.35	\$0.00	\$5,769.35
	Ana Coreas	\$2,646.22	\$0.00	\$2,646.22
	Arnando JR Cruz	\$768.78	\$0.00	\$768.78
	Francisca Gamboa	\$132.21	\$0.00	\$132.21
	Milagros Garcia	\$99.75	\$0.00	\$99.75
	Teresa Giron	\$289.93	\$0.00	\$289.93
	Maria Guardado	\$707.90	\$0.00	\$707.90
	Raquel Hernandez	\$127.50	\$0.00	\$127.50
	Sandra Hernandez	\$254.36	\$0.00	\$254.36
	Steven Koskey	\$262.50	\$0.00	\$262.50
	Jimenez Leo	\$82.68	\$0.00	\$82.68
	Eniopola Lima	\$56.50	\$0.00	\$56.50
	Richard Lloyd	\$142.46	\$0.00	\$142.46
Date Due	06/05/2010			
	Richard Lloyd	\$1,005.93	\$0.20	\$1,006.13
	Jorge Marquez	\$127.72	\$0.02	\$127.74

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EE Name / 3rd Party	Principal	Interest	Total Payment
Zuleika Ortega	\$63.44	\$0.01	\$63.45
Magaly Polack	\$314.34	\$0.06	\$314.40
Rabindra Ramdarran	\$101.16	\$0.02	\$101.18
Ingris Ramirez	\$151.70	\$0.03	\$151.73
Zulma Rivera	\$64.10	\$0.01	\$64.11
Belarmin Rodriguez	\$87.50	\$0.02	\$87.52
Vashti Shivprashad	\$21.75	\$0.00	\$21.75
Ann Marie Soto	\$76.60	\$0.01	\$76.61
Janusz Szela	\$706.33	\$0.14	\$706.47
Alan Thrasher	\$29.09	\$0.01	\$29.10
Muriel Velez	\$105.80	\$0.02	\$105.82
Sandoval Widalys	\$223.13	\$0.04	\$223.17
Gavidia Yira	\$187.57	\$0.04	\$187.61
Nelsi Zarceno	\$247.02	\$0.05	\$247.07
Josefina Castillo	\$133.20	\$0.03	\$133.23
Orin Daphness	\$77.18	\$0.02	\$77.20
Ramsaran Dhanwattie	\$536.36	\$0.10	\$536.46
Claudia Calderon	\$53.94	\$0.01	\$53.95
Carmen Contreras	\$245.25	\$0.05	\$245.30
Celeste Mangra	\$147.50	\$0.03	\$147.53
Olivia Mota	\$69.74	\$0.01	\$69.75
Liloutie Boodram	\$23.85	\$0.00	\$23.85
Pauline Burke	\$28.70	\$0.01	\$28.71
Leila Laguna	\$296.31	\$0.06	\$296.37
Mahadeo Mohabir	\$733.88	\$0.14	\$734.02
Alleyne Orwin	\$75.00	\$0.01	\$75.01
Erika Chambers	\$56.88	\$0.01	\$56.89
Jose Garcia	\$70.00	\$0.01	\$70.01
Stephen Engelhardt	\$312.00	\$0.06	\$312.06
Hector Lizardo	\$85.00	\$0.02	\$85.02
James Zeigler	\$510.66	\$0.10	\$510.76
Lynette Knights	\$2,252.51	\$0.44	\$2,252.95

EE Name / 3rd Party		Principal	Interest	Total Payment
Hemrai Bisambar		\$597.20	\$0.12	\$597.32
Elsa Mathews		\$4,154.13	\$1.03	\$4,155.16
<b>Date Due 06/12/2010</b>				
Elsa Mathews		\$1,130.19	\$0.22	\$1,130.41
Karen Aguirre		\$60.54	\$0.02	\$60.56
Joseph Anderson		\$233.63	\$0.09	\$233.72
Monica Armstrong		\$70.61	\$0.03	\$70.64
James Blackett		\$132.55	\$0.05	\$132.60
Steve Blackett		\$128.25	\$0.05	\$128.30
Fleuriot Charmant		\$64.42	\$0.02	\$64.44
Madeline Corchado		\$164.45	\$0.06	\$164.51
Yoselin Cruz		\$33.15	\$0.01	\$33.16
Walter Daniels		\$24.88	\$0.01	\$24.89
Trecia Fraser		\$1,996.45	\$0.78	\$1,997.23
Anthony Harrison		\$71.85	\$0.03	\$71.88
Heliodoro Hildago		\$104.00	\$0.04	\$104.04
Wilfred Lowe		\$102.82	\$0.04	\$102.86
Juan Roman		\$90.00	\$0.04	\$90.04
Dacia Rowland		\$50.70	\$0.02	\$50.72
Louis Salomon		\$69.36	\$0.03	\$69.39
Keith Weeks		\$39.38	\$0.02	\$39.40
Eugena Beckles		\$268.12	\$0.10	\$268.22
Brandy Ward		\$218.63	\$0.08	\$218.71
Maria Martiriz		\$53.05	\$0.02	\$53.07
Maribel Reyes		\$932.37	\$0.36	\$932.73
John Clarence		\$44.60	\$0.02	\$44.62
Evelyn Guardado		\$136.84	\$0.05	\$136.89
Angel Barrientos		\$30.00	\$0.01	\$30.01
Marina Delgado		\$678.77	\$0.26	\$679.03
Ana Talia Jaime		\$124.00	\$0.05	\$124.05
Teodoli Millington		\$123.34	\$0.05	\$123.39

EE Name / 3rd Party	Principal	Interest	Total Payment
Earl Scott	\$1,683.46	\$0.65	\$1,684.11
Martin Hernandez	\$67.00	\$0.03	\$67.03
Marisol Ramirez	\$63.94	\$0.02	\$63.96
Brucely Beauvias	\$493.75	\$0.19	\$493.94
Ana Rodriguez	\$123.81	\$0.05	\$123.86
Tetuana Taylor	\$495.10	\$0.19	\$495.29
Grimanesa Blass	\$41.25	\$0.02	\$41.27
Marieta Grant	\$86.25	\$0.03	\$86.28
Isabel Socualaya	\$41.11	\$0.02	\$41.13
Zuliet Nichols	\$61.08	\$0.02	\$61.10
Jose Cuyatti	\$67.82	\$0.03	\$67.85
Mary Philip	\$151.70	\$0.06	\$151.76
Beatriz Miller	\$77.38	\$0.03	\$77.41
Mercedes Rodriguez	\$164.25	\$0.06	\$164.31
Jairo Rodriguez	\$38.58	\$0.02	\$38.60
Callun Collymore	\$41.52	\$0.02	\$41.54
Ahmed Joudah	\$140.95	\$0.05	\$141.00
Eva Lee	\$1,194.49	\$0.46	\$1,194.95
Jose Corpuz	\$40.69	\$0.02	\$40.71
Cesar Cuyatti	\$28.19	\$0.01	\$28.20
Miriam Mendoza	\$22.28	\$0.01	\$22.29
Martha Montoya	\$56.18	\$0.02	\$56.20
Maria Sabess	\$112.00	\$0.04	\$112.04
Susana Fuentes	\$82.23	\$0.03	\$82.26
Rohan Jackson	\$304.95	\$0.12	\$305.07
Wilson Keyon	\$39.00	\$0.02	\$39.02
Carlos Moore	\$57.80	\$0.02	\$57.82
Jairo Torres	\$45.00	\$0.02	\$45.02
Orwin Alleyne	\$127.50	\$0.05	\$127.55
Elizabeth Ayala	\$25.02	\$0.01	\$25.03
Erna Bonicet	\$35.75	\$0.01	\$35.76
Vincent Carruthers	\$48.88	\$0.02	\$48.90

EE Name / 3rd Party	Principal	Interest	Total Payment
Rudolph Charles	\$114.38	\$0.04	\$114.42
Rosa Gomez	\$78.75	\$0.03	\$78.78
Marie Joseph	\$126.40	\$0.05	\$126.45
Emperatriz Ariano	\$84.38	\$0.03	\$84.41
Edita Arias	\$225.13	\$0.09	\$225.22
Mayra Brea	\$53.48	\$0.02	\$53.50
Grasmaida Casal	\$54.09	\$0.44	\$54.53
<b>Date Due 06/19/2010</b>			
Grasmaida Casal	\$1,065.91	\$0.21	\$1,066.12
Yuen Shan Chui	\$25.48	\$0.02	\$25.50
Calvin Davis	\$109.04	\$0.06	\$109.10
George Guzman	\$168.00	\$0.10	\$168.10
Rosa Howard	\$2,590.49	\$1.51	\$2,592.00
Patrick Peart	\$55.69	\$0.03	\$55.72
Delroy Pinnock	\$285.88	\$0.17	\$286.05
Nilka Pinto	\$310.00	\$0.18	\$310.18
Marvin President	\$200.00	\$0.12	\$200.12
Christian Medina	\$32.50	\$0.02	\$32.52
Blanca Navarro	\$54.85	\$0.03	\$54.88
Renate Krup	\$413.40	\$0.24	\$413.64
Patricia Uribe	\$2,378.46	\$1.39	\$2,379.85
Helena Zerkowska	\$178.13	\$0.10	\$178.23
Raul Bermeo	\$267.75	\$0.16	\$267.91
Hipolita Tejada	\$31.88	\$0.02	\$31.90
Ahile Tekkalon	\$22.11	\$0.01	\$22.12
Antonia Hanley	\$28.30	\$0.02	\$28.32
June Maughn	\$114.32	\$0.07	\$114.39
Wilfredo Santiago	\$142.50	\$0.08	\$142.58
Tatrie Subramani	\$268.13	\$0.16	\$268.29
Mercedes Castro	\$172.49	\$0.10	\$172.59
Shelly Layne	\$59.00	\$0.03	\$59.03

EE Name / 3rd Party	Principal	Interest	Total Payment
Edy Pichardo	\$73.26	\$0.04	\$73.30
Raul Marti	\$267.95	\$0.16	\$268.11
Michael Sampson	\$201.86	\$0.12	\$201.98
Troy Clyne	\$28.00	\$0.02	\$28.02
Ramon Rosales	\$244.13	\$0.14	\$244.27
Leo Zoraida	\$46.48	\$0.03	\$46.51
Claribel Castillo	\$50.02	\$0.03	\$50.05
Sheldon Aberdeen	\$27.06	\$0.02	\$27.08
Harris Boreland	\$116.19	\$0.07	\$116.26
Mohenie Dillon	\$116.19	\$0.07	\$116.26
Garnett Gibbons	\$23.95	\$0.01	\$23.96
Deolall Girdhari	\$43.97	\$0.03	\$44.00
John Warren	\$34.75	\$0.02	\$34.77
Rosalia Woods	\$45.34	\$0.03	\$45.37
Isabel Fernandez	\$133.30	\$0.08	\$133.38
Cynthia Tyler	\$48.54	\$0.03	\$48.57
Raji Mathai	\$148.00	\$0.09	\$148.09
Jilmer Garcia	\$494.62	\$0.29	\$494.91
Ben Asamoa	\$24.00	\$0.01	\$24.01
Michele Berumen	\$26.00	\$0.02	\$26.02
Geraldo Ford	\$313.50	\$0.18	\$313.68
Terrance Hudson	\$127.50	\$0.07	\$127.57
Gladston Petinaud	\$172.19	\$0.10	\$172.29
Gino Pizarro	\$233.81	\$0.14	\$233.95
Katherine Ricard	\$93.75	\$0.05	\$93.80
Holly Roosevelt	\$159.60	\$0.09	\$159.69
Jessica Sutton	\$75.00	\$0.04	\$75.04
Robin Rambarran	\$73.13	\$0.04	\$73.17
Joseph Winston	\$56.03	\$0.03	\$56.06
Isabel Ferreras	\$26.25	\$0.02	\$26.27
Hayden Zephyrine	\$60.00	\$0.04	\$60.04
Zayira Davis	\$238.13	\$0.14	\$238.27

EE Name / 3rd Party	Principal	Interest	Total Payment
Herrera Valisha	\$65.63	\$0.04	\$65.67
Ahuly Pichardo	\$358.44	\$0.21	\$358.65
Victorino Morales	\$28.96	\$0.02	\$28.98
Maverick Boone	\$22.84	\$0.01	\$22.85
Allan Seegobin	\$159.60	\$0.09	\$159.69
Xiomara Escalona	\$48.94	\$0.03	\$48.97
Maria Lopez	\$210.54	\$0.12	\$210.66
Agboyibor Kokou	\$23.13	\$0.01	\$23.14
Sulma Benarides	\$29.04	\$0.02	\$29.06
Rosa Guardado	\$153.71	\$0.09	\$153.80
Robin Reed	\$23.08	\$0.01	\$23.09
Eddie Baker	\$29.25	\$0.02	\$29.27
Samaroo Pulmate	\$22.50	\$0.01	\$22.51
	<b>\$55,889.88</b>	<b>\$16.31</b>	<b>\$55,906.19</b>